IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 14407 of 2007(M)

OS.493/2006 of PRINCIPAL MUNSIFF'S COURT, KOCHI
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PETITIONERS:
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1. THERSIAMMA, AGED 74,
W/O.LATE OUSEPH @ KUNJU OUSEPH,
NARAKKATU HOUSE, EDVANAKAD P.O., EDVANAKAD VILLAGE
KOCHI TALUK.

2. LISSY ABRAHAM ALIAS PHILOMINA,
AGED 50 YEARS,
W/O.Y.C.ABRAHAM ALIAS SUNNY YOGIAVETTIL,
NARAKKATU HOUSE, EDAVANAKAD P.O., EDAVANAKAD
VILLAGE, KOCHI TALUK.

3. KOCHUTHRESIA, AGED 48 YEARS,
W/O.JAMES YOGIAVETTIL, MUHAMMA P.O.,
THANNERMUKKOM THEKKU VILLAGE, CHERTHALA TALUK,
ALAPPUZHA DISTRICT.

BY ADV. SRI.JOSEPH A.VADAKKEL
SRI.GEORGE KARITHANAM VARGHESE
SRI.JOSE KURIAKOSE (VILANGATTIL)
SRI.V.J.JOHN

RESPONDENT:

AMBROSE, S/O.OUSO, AGED AROUND 42,
ELLATHUPADY, EDAVANAKKAD P.O.,
EDAVANAKKAD VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 14407 OF 2007

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Dated this the 23rd day of May, 2007.

J U D G M E N T

This writ petition is preferred against the order in I.A.13/07 in O.S.493/06 of the Munsiff Court, Kochi. The above said application is an application to review the order passed by the learned Munsiff as per Ext.P3 in I.A. 2982/06. As per the order in I.A.2982/06 the Munsiff observed that no counter is filed and the temporary injunction granted on 1.12.06 is revived and extended until further orders. It was to review that order the writ petitioner moved I.A.13/07. The Court found that there is no apparent error and therefore dismissed the review application. The learned counsel strongly argued that the learned Munsiff has not applied his mind and had confirmed the order of injunction. There was an interim order passed against which no counter was filed and it was revived and made absolute. The learned Munsiff observed that since the prayers regarding plaint A and D schedule properties were not allowed it could be presumed that these prayers are refused. Even if the learned Munsiff has committed

an error the proper remedy for the party is to file an appeal against the said order under Order 43 of the Code of Civil Procedure and this Court sitting in the writ jurisdiction cannot review and hear the injunction application. Therefore, the writ petition lacks merits and it is dismissed.

It is made clear that the dismissal of this writ petition or the review application will not stand in the way of the writ petitioner filing appropriate appeal before the Appellate Court and the Appellate Court is bound to consider all the contentions raised in the injunction application and dispose of the matter on merits in accordance with law.

M.N. KRISHNAN, JUDGE.

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